

### **REMARKS**

Claims 2 and 5-22 are pending in this application. Claims 6, 11, 13, and 18-20 are independent. In light of the remarks made herein, Applicants respectfully request reconsideration and withdrawal of outstanding rejections.

In the outstanding Official Action, the Examiner rejected claims 2, 6, 7, 10, 18, 21, and 22 under 35 U.S.C. § 102(e) as being anticipated by *Windle* (USP 6,606,117); rejected claims 5, 11-14, 17, 19, and 20 under 35 U.S.C. § 102(b) as being anticipated by FujiFilm MX-2900 Zoom Digital Camera Owner's Manual (hereinafter, "the Manual"); rejected claims 8 and 9 under 35 U.S.C. § 103(a) as being unpatentable over *Windle* in view of *Kyuma et al.* (USP 5, 883,666); and rejected claims 15-17 under 35 U.S.C. § 103(a) as being unpatentable over the Manual in view of *Kyuma et al.* Applicants respectfully traverse these rejections.

The Examiner has further objected to claims 6, 11, and 13 based on minor informalities.

### **Claim Objections**

The Examiner objected to claims 6, 11, and 13 based on minor informalities. By this Amendment, Applicants have amended these claims to more appropriately recite the present invention. It is respectfully submitted that these amendments are being made without conceding the propriety of the Examiner's objection, but merely to timely advance prosecution of the present application. Further, these amendments are being made merely to correct the typographical errors and do not affect the scope of the claims.

### **Claim Rejections – 35 U.S.C. § 102- The Manual**

With regard to independent claim 11, the Examiner has withdrawn his rejection of this claim and has cited new art to support a rejection under 35 U.S.C. § 102. Specifically, the Examiner asserts that the Manual anticipates the present invention by teaching a direction determining device and an extracting device as set forth in the claims. In support of his rejection, the Examiner asserts that the direction determining device element is written broadly enough

such that it allows for a one to one correspondence between determining whether the digital camera is held widthwise or lengthwise and a plurality of composition assist frames, i.e., determining widthwise or lengthwise directly corresponds to extracting and selecting a composition assist frame. The Examiner concludes that once at least one composition assist frame is extracted, widthwise or lengthwise is determined. Applicants respectfully disagree with the Examiner's interpretation of the claim elements.

Claim 11 clearly recites a digital camera comprising a direction determining device that determines whether the digital camera is held widthwise or lengthwise and an extracting device that extracts one or more composition assist frames that can be selected from the plurality of composition assist frames according to the direction of the camera determined by the direction determining device. It is clearly recited in the claims, *inter alia*, that the direction determining device determines whether the digital camera is held widthwise or lengthwise first. Once the direction is determined, the extracting device extracts one or more composition assist frames that can be selected from the plurality of composition assist frames **according to the direction of the camera determined by the direction determining device**. As can be seen on pages 44 and 45 of the Manual, the digital camera merely provides for the user an opportunity to select one of three framing guidelines. There is no teaching or suggestion in the Manual that is directed to a direction determining device. Further, there is no extraction that is performed that extracts one or more composition assist frames according to the direction of the camera determined by the direction determining device.

Further, the Examiner's interpretation that "once at least one composition assist frame is extracted, widthwise or lengthwise is determined" is contrary to the claim language. It is clearly recited that first the direction is determined and then at least one composition assist frame is extracted based on the direction that is determined.

For at least these reasons, Applicants respectfully submit that the Examiner's rejection of claim 11 is deficient as the Examiner is taking an interpretation of the claim that is contrary to the claim as it is written. Further, the cited reference fails to teach or suggest all of the claim

elements. As such, Applicants maintain that the Examiner has failed to establish *prima facie* anticipation.

It is respectfully submitted that claim 12 is allowable for the reasons set forth above with regard to claim 11 at least based upon its dependency on claim 11. It is further respectfully submitted that claims 13 and 19-20 contain elements similar to those discussed above with regard to claim 11 and thus these claims, together with the claims dependent thereon, are not anticipated by the Manual.

**Claim Rejections - 35 U.S.C. § 102 - Windle**

In the previous Reply, Applicants argued that *Windle* fails to teach or suggest a composition assist frame based upon the definition set forth in the specification, together with the ordinary meaning of the term “frame”. In response, the Examiner argues that *Windle* indicates that each template is actually a frame that overlays a captured preview image to assist a user in capturing a final image. The Examiner further notes that *Windle* teaches that the elements can circumscribe an area within the display, i.e., “the elements can appear on a portion of the display in which the image is not displayed.”

Additionally, Applicants argued that *Windle* fails to teach or suggest extracting at least one composition assist frame associated with the selecting shooting mode from the plurality of composition assist frames. In response, the Examiner asserts that the claim language is written broadly enough such that it allows for one to one correspondence between a plurality of shooting modes and a plurality of composition assist frames. The Examiner asserts that *Windle* discloses that once a shooting mode is selected, at least one composition assist frame can be extracted. The Examiner asserts that claim 6 does not require that a plurality of composition assist frames must be extracted. The Examiner maintains that the claim only requires that a plurality of composition assist frames exists, which the Examiner asserts is disclosed in *Windle*. Specifically, the Examiner directs Applicants’ attention to Fig. 3 “showing a plurality of shooting modes that are each in one to one correspondence with a composition assist frame.” The Examiner further states

that *Windle* provides a plurality of composition assist frames, i.e., landscape, pan shot, and portrait. Applicants respectfully disagree with the Examiner's characterization of this reference.

The Examiner relies on Fig. 3 to disclose both selecting the shooting mode and selecting the composition assist frames. However, *Windle* clearly teaches that for the landscape, the pan shot, and the portrait templates as disclosed in Fig. 3, only one template is associated with each selection. While the user may select the mode (the Examiner previously indicated that he is relying on the selections in Fig. 3 to teach the shooting mode), there is no teaching or suggestion that is directed to an enabling selection of a composition assist frame from the at least one extracted composition assist frame associated with the selecting shooting mode. It appears that the Examiner is asserting that the teaching of selecting a shooting mode is sufficient to teach extracting one or more composition assist frames and selecting the extracted frames. However, Applicants maintain that as these elements are clearly recited as separate elements where selection is based upon the extraction, the mere teaching of selecting a mode as purportedly taught in *Windle* is insufficient to render the pending claim anticipated.

In addition to the above argument, assuming, *arguendo*, that the disclosure set forth in Fig. 3 teaches the composition assist frame selecting device, there is insufficient teaching or suggestion in *Windle* that is directed to the shooting mode as claimed. As such, regardless of how the Examiner wishes to characterize the teaching in Fig. 3, there is insufficient disclosure in *Windle* that is directed to teaching both the composition of assist frame selecting device and the shooting mode as claimed. As the Examiner has failed to provide references that teach or suggest all of the claimed elements, Applicants maintain that the Examiner has failed to establish *prima facie* anticipation. As claims 6 and 18 similarly recite these claim elements, Applicants maintain that neither of these claims, together with the claims dependent thereon, are anticipated by *Windle*. It is respectfully requested that the outstanding rejection be withdrawn.

### **Conclusion**

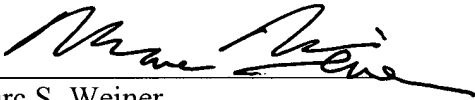
In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinnet (Reg. No. 52,327) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: June 8, 2005

Respectfully submitted,

By 

Marc S. Weiner

Registration No.: 32,181

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Rd

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant